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PART IV.  
SUBMARINE WARFARE.

(Continuation of correspondence printed in Special Supplement, July, 1915,  
pp. 83-101, 129-141, 149-153, 155-157.)

1. CORRESPONDENCE WITH GERMANY REGARDING SUB-  
MARINE INTERFERENCES WITH COMMERCIAL VESSELS.

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*Ambassador Gerard to the Secretary of State.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
*Berlin, May 9, 1915.*

Ambassador Gerard transmits to the Department the following statement, which he says was received at 5.30 to-day from the German Foreign Office, relative to attacks made by mistake on neutral vessels of commerce by German submarines:

First. Imperial German Government has naturally no intention of causing to be attacked by submarines or air craft such neutral ships of commerce in the zone of naval warfare, more definitely described in the notice of the German Admiralty staff of February 4 last, as have been guilty of no hostile act; on the contrary, the most definite instructions have repeatedly been issued to German war vessels to avoid attacks on such ships under all circumstances. Even when such ships have contraband of war on board, they are dealt with by submarines solely according to the rules of international law applying to prize warfare.

Two. Should a neutral ship, nevertheless, come to harm through German submarines or air craft on account of an unfortunate ( \* \* \* ) in the above-mentioned zone of naval warfare, the German Government will unreservedly recognize its responsibility therefor. In such a case it will express its regrets and afford damages without first instituting a prize court action.

Three. It is the custom of the German Government as soon as the sinking of a neutral ship in the above mentioned zone of naval warfare

<sup>1</sup> Apparent omission.

is ascribed to German war vessels to institute an immediate investigation into the cause. If grounds appear thereby to be given for assuming such a hypothesis, the German Navy places itself in communication with the interested neutral government, so that the latter may also institute an investigation. If the German Government is thereby convinced that the ship has been destroyed by German war vessels, it will not delay in carrying out the provisions of paragraph two above. In case the German Government, contrary to the viewpoint of the neutral government, is not convinced by the result of the investigation, the German Government has already on several occasions declared itself ready to allow the question to be decided by an international investigation commission according to chapter three of The Hague Convention of October 18, 1907, for the peaceful solution of international disputes.

GERARD.

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*Ambassador Gerard to the Secretary of State.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
*Berlin, July 12, 1915.*

Following memorandum just received from the Foreign Office:

Memorandum relative to the damaging of the American steamer *Nebraskan* by a German submarine:

The German Government received from newspaper reports the intelligence that the American steamer *Nebraskan* had been damaged by a mine or torpedo on the southwest coast of Ireland. It therefore started a thorough investigation of the case without delay, and from the result of the investigation it has become convinced that the damage to the *Nebraskan* was caused by an attack by a submarine.

On the evening of May 25 last the submarine met a steamer bound westward without a flag and with no neutral markings on her freeboard about 35 nautical miles west of Fastnet Rock; no appliance of any kind for the illumination of the flag or markings was to be seen. In the twilight, which had already set in, the name of the steamer was not visible from the submarine. Since the commander of the submarine was obliged to assume, from his wide experience in the area of maritime war, that only English steamers, and no neutral steamers, traversed this war area without flag and markings, he attacked the vessel with a torpedo in the conviction that he had an enemy vessel before him. Some time after the shot the commander saw that the vessel had in the meantime hoisted the American flag. As a consequence he of course refrained from any further attack. Since the vessel remained afloat he had no

occasion to concern himself further with the boats which had been launched.

It results from this, without a doubt, that attack on the steamer *Nebraskan* was not meant for the American flag; nor is it traceable to any fault on the part of the commander of the German submarine, but is to be considered an unfortunate accident. The German Government expresses its regret at the occurrence to the Government of the United States of America and declares its readiness to make compensation for the damage thereby sustained by American citizens.

As in the case of the steamer *Gulflight*, the German Government begs to suggest that the American Government submit to it a detailed statement of such damage or, if doubt might arise as to certain points, to designate an expert to fix the amount of compensation, acting in conjunction with a German expert.

GERARD.

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*Consul Dennison to the Secretary of State.*

[Telegram.]

AMERICAN CONSULATE,  
*Dundee, July 26, 1915.*

American steamer *Leelanaw*, of New York, from Archangel to Belfast, with flax, torpedoed and sunk by German submarine on twenty-fifth. Whole crew landed at Kirkwall this morning in their own boats. Have instructed consular agent to send them on to Dundee immediately.

DENNISON.

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*Consul General Skinner to the Secretary of State.*

[Telegram.]

AMERICAN CONSULATE GENERAL,  
*London, July 26, 1915.*

American ship *Leelanaw*, returning from Archangel to home port with flax for Belfast, Ireland, torpedoed and sunk by German submarine twenty-fifth. Entire crew landed Kirkwall this morning in own boats.

SKINNER.

*Consul General Skinner to the Secretary of State.*

[Telegram.]

AMERICAN CONSULATE GENERAL,  
*London, July 27, 1915.*

*Leelanaw* crew proceeding to Dundee. Captain torpedoed ship states agent Kirkwall he had ample time leave his ship before being fired on. Crew went on board submarine and remained some time, ship's boats being taken in tow for about fifty miles.

SKINNER.

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*Ambassador W. H. Page to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*London, July 27, 1915.*

Sir Edward Grey to-day communicated to me the following message which he stated had been received by him from the British Admiralty:

With reference to the American ship *Leelanaw* crew propose leaving Kirkwall for Aberdeen July 27. Vessel was flying American flag. Crew were told they might take their time to leave the ship and save their effects. Submarine towed their boats toward Orkney Islands; cast off the tow on another steamer being sighted.

PAGE.

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*Consul Dennison to the Secretary of State.*

[Telegram.]

AMERICAN CONSULATE,  
*Dundee, July 28, 1915.*

*Leelanaw's* crew here all safe. Sail Saturday *Saint Paul*. Master under oath states sighted German submarine July twenty-fifth, sixty miles northwest Orkneys. Endeavored to escape. Fired on at distance two miles, shot falling short; hove to and stopped. Submarine signalled for ship's papers, which were sent. After examining them submarine signalled abandon ship. Ample time given crew to leave

ship. Five shots then fired at *Leelanaw* without effect, followed by torpedo. Crew then taken on submarine with lifeboats in tow, after which two more shots were fired, last one setting fire to ship. Submarine headed towards Orkneys. *Leelanaw* was seen to sink one hour twenty minutes later. Eight-thirty another steamer being seen approaching, crew ordered to boats, in which they proceeded remainder distance to Kirkwall, arriving six thirty following morning. *Leelanaw* laden with flax and tow only. Before leaving submarine master demanded ship's papers. Request refused, his register, customs manifest, and bills of lading being retained. Master has no complaint of treatment on submarine.

DENNISON.

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*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, July 31, 1915.*

Ambassador Gerard is directed to obtain and forward to the Department of State a full report of facts relating to the sinking of the American ship *Leelanaw*, together with certified copies of the ship's papers.

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*Ambassador W. H. Page to the Secretary of State.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
*London, August 19, 1915.*

Mr. Page informs Mr. Lansing that he has just received word that the steamer *Arabic* of the White Star Line was torpedoed at nine o'clock this morning and sank in eleven minutes. He reports that fifteen lifeboats from the vessel are proceeding to Liverpool, and that he will send details of the incident as soon as possible.

*The German Ambassador to the Secretary of State.*

[Telegram.]

NEW YORK, August 24, 1915.

I am instructed by my government to communicate the following to you:

So far no official information about the sinking of the *Arabic* is available. The Imperial Government trusts that the Government of the United States will not take a definite stand after only hearing the reports coming from one side, which, according to the opinion of my government, cannot possibly correspond with the facts, but will give the Imperial Government a chance to be heard equally. Although my government does not doubt the good faith of the witnesses whose statements have been published by the newspapers in Europe my government thinks that it should be borne in mind that such statements have naturally been made in great excitement which might easily produce a wrong impression. In case Americans should actually have lost their life this would naturally be contrary to the intention of the German Government, who would deeply regret this fact and has instructed me to extend its sincerest sympathy to the Government of the United States.

May I ask you to be good enough to publish the above or to kindly let me know whether you agree to my publishing it?

J. BERNSTORFF.

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*The German Ambassador to the Secretary of State.*GERMAN EMBASSY,  
Washington, September 1, 1915.

MY DEAR MR. SECRETARY:

With reference to our conversation of this morning I beg to inform you that my instructions concerning our answer to your last *Lusitania* note contain the following passage:

Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance.

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain, etc.,

J. BERNSTORFF.

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*The German Ambassador to the Secretary of State.*

[Translation.]

J. Nr. A'5476.]

GERMAN EMBASSY,  
*Cedarhurst, N. Y., September 4, 1915.*

MR. SECRETARY OF STATE: On the 25th of last month an English merchant vessel fired on a German submarine in the Irish Sea without any challenge of any kind.

On the 18th of the same month a German submarine was fired on in Bristol Channel by an English passenger steamer that had been summoned to stop.

By direction of my Government I have the honor to bring those cases to Your Excellency's notice in order again to lay stress on the point that British merchant vessels which attack German submarines of course expose themselves to the danger of destruction; American citizens who travel on such vessels do so on their own responsibility and incur the greatest risk.

Accept, etc.,

J. BERNSTORFF.

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*Ambassador Gerard to the Secretary of State.*

AMERICAN EMBASSY,  
*Berlin, September 7, 1915.*

Foreign Office sends me the following report of the sinking of the *Arabic*, with the request that it be brought to the knowledge of the American Government:

On the 19th of August a German submarine stopped the English steamer *Dunsley* about 60 nautical miles south of Kinsale and was on



the point of sinking the prize by gun fire after the crew had left the vessel. At this moment the commander saw a large steamer making directly toward him. This steamer, which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel, as she did not fly any flag and bore no neutral markings. When she approached she altered her original course, but then again pointed directly toward the submarine. From this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in 15 boats.

According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion was all the more obvious, as he had been fired upon at a great distance in the Irish Sea on August 14—that is, a few days before—by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Company, which he had neither attacked or stopped.

The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this regret to the Government of the United States on account of the death of American citizens. The German Government is unable, however, to acknowledge any obligation to grant indemnity in the matter, even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and the American Government to reach a harmonious opinion on this point, the German Government would be prepared to submit the difference of opinion as being a question of international law to The Hague tribunals, pursuant to Article 38 of The Hague Convention for the Pacific Settlement of International Disputes. In so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare. Berlin, September 7, 1915.

GERARD.

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*Ambassador Gerard to the Secretary of State.*

No. 1507.]

AMERICAN EMBASSY,  
*Berlin, September 11, 1915.*

SIR: With reference to my telegram of the 10th instant, No. 2867,<sup>1</sup> I

<sup>1</sup> Not printed.

have the honor to transmit herewith a copy and translation of the note received from the Imperial Foreign Office dated September 9, 1915, inclosing the report of the attack on the steamer *Orduna* by a German submarine.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

*The German Minister for Foreign Affairs to Ambassador Gerard.*

FOREIGN OFFICE,  
*Berlin, September 9, 1915.*

The undersigned has the honor to transmit herewith to His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the notes of July 27 and September 1, 1915, F. O. 4444 and 4959, a memorandum relative to the attack by a German submarine on the English passenger steamer *Orduna*.

The undersigned avails himself, etc.,

VON JAGOW.

[Subinclosure—Translation.]

#### MEMORANDUM.

At about quarter past seven on the morning of July 9 last a German submarine sighted a steamer from 3 to 5 miles away and a sailing vessel about a mile away. The steamer was proceeding without any flag or neutral markings and was taken for a small enemy steamer by the commander of the submarine on account of the difficulty of observation caused by the unfavorable weather. The commander decided first to attack the steamer submerged and fired a torpedo at the vessel which missed its mark.

Hoping to catch the steamer above the water, the submarine rose and chased the steamer on the surface. The steamer did not stop when a shot of warning was fired, and therefore several shells were fired at her which did not strike her, as the submarine was pitching about and the distance was great. The submarine then proceeded to the sailing vessel, which was shown to be the American bark *Normandie*, bound from New York to Liverpool with a cargo of lumber. Although the cargo contained

contraband, the sailing vessel was permitted to continue her voyage unhindered, as it was impossible to guarantee that the crew would be surely rescued in the small boats if the ship were sunk.

The first attack on the *Orduna* by a torpedo was not in accordance with the existing instructions, which provide that large passenger steamers are only to be torpedoed after previous warning and after the rescuing of passengers and crew. The failure to observe the instructions was based on an error, which is at any rate comprehensible, and the repetition of which appears to be out of the question, in view of the more explicit instructions issued in the meantime. Moreover, the commanders of the submarines have been reminded that it is their duty to exercise greater care and to observe carefully the orders issued.

*Berlin, September 9, 1915.*

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*The Secretary of State to Ambassador Gerard.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 14, 1915.*

You are instructed to deliver to the Foreign Office the following summary of the evidence<sup>1</sup> on file in the Department in regard to the sinking of the *Arabic*.

(1) It is generally agreed that the course of the *Arabic* drew her nearer to the *Dunsley* from the time the *Dunsley* and *Arabic* sighted each other until about the time the *Arabic* was torpedoed. (Affidavits of Master, First, Second, and Third Officers, Mess steward and seamen of *Dunsley*; affidavits of Captain and Second Officer of the *Arabic*; unsworn statements of three American passengers.) The Officers of the *Dunsley* agree that the *Arabic* altered her course somewhat toward the *Dunsley*, but that her course was variable or zig-zag. (Affidavits of Master, 1st, 2d, and 3d officers and Mess Steward and one Seaman of the *Dunsley*; affidavits of Captain and 2nd officer of *Arabic*; affidavit of one American Passenger.) The Third officer stated that the *Arabic* began the zig-zag course four miles away from the *Dunsley*. Though the *Arabic* at times

<sup>1</sup> The text of the evidence is printed in an appendix, *infra*, p. 203.

necessarily pointed toward the *Dunsley*, at the time the torpedo struck she was moving away from the *Dunsley*. (Affidavit of Captain and Second Officer of *Arabic*, third officer of *Dunsley*, and one passenger of unknown nationality and unsworn statement of one American passenger.)

(2) The passengers on the *Arabic* variously estimated that the *Arabic* approached the *Dunsley* to within one to five miles. (Affidavits of 3 American passengers; unsworn statements of three American passengers and one passenger of unknown nationality.) While the *Dunsley* was sighted several miles away, the officers of that vessel estimated that the *Arabic* approached to one and a half to three miles from the *Dunsley*. (Affidavits of Master, 1st and 2nd officers.) And one *Dunsley* seaman swore the first distance was only one half mile. The affidavits of the Captain and the 2nd Officer of the *Arabic* agree that the *Arabic* did not approach nearer than two miles to the *Dunsley*.

(3) It appears that the submarine after shelling the *Dunsley* and after sighting the *Arabic* hid behind the *Dunsley* and submerged before the explosion of the torpedo which sank the *Arabic*. (Affidavits of Master, 1st and 2nd officers, mess steward, and one seaman of *Dunsley*.)

(4) Witnesses are in agreement that the submarine was not seen from the *Arabic* (affidavits of the Captain and 2nd Officer of the *Arabic*, affidavits of 3 American passengers and unsworn statement of passenger of unknown nationality), and that the *Arabic* could not have seen the submarine from its position behind the *Dunsley* prior to submerging. (Affidavit of 2nd Officer of the *Dunsley*.)

(5) All agree that the *Arabic* received no warning. (Affidavit of 6 American passengers and two passengers of unknown nationality, and the unsworn statements of four American passengers and two passengers of unknown nationality, and the affidavits of Captain and 2nd Officer of the *Arabic*.)

(6) The torpedo was first seen by the passengers at an estimated distance of 150 to 300 yards away. (Affidavit of passenger of unknown nationality; unsworn statements of two American passengers and one passenger of unknown nationality.) The Captain of the *Arabic*, however, swears that the air bubbles and the torpedo were only 300 feet away when he saw them. (It appears that Consul Washington at Liverpool, in conversation with Captain Finch and the Second Officer of the *Arabic*, learned that they saw bubbles of air at the time they first noticed the torpedo, which were taken to indicate the air escaping at the time the

torpedo was expelled from the tube, and that therefore the submarine was supposed to have been only 300 feet from the *Arabic* and about 2 miles from the *Dunsley*, when the torpedo was fired. Consul Washington's three telegraphic reports of August 24th.)

(7) All agree that the torpedo struck the *Arabic* near the stern on the starboard side. (Affidavit of Captain, 2nd officer of *Dunsley*, and two American passengers and a passenger of unknown nationality, and unsworn statement of one American passenger.)

From a diagram made by the Second Officer of the *Arabic*, who observed the approach of the torpedo from the navigating bridge, the course of the torpedo was almost at right angles to the course of the *Arabic*.

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*The German Ambassador to the Secretary of State.*

GERMAN EMBASSY,  
Washington, October 5, 1915.

MY DEAR MR. SECRETARY:

Prompted by the desire to reach a satisfactory agreement with regard to the *Arabic* incident my Government has given me the following instructions:

The orders issued by His Majesty the Emperor to the commanders of the German submarines—of which I notified you on a previous occasion—have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question.

According to the report of Commander Schneider of the submarine that sank the *Arabic*, and his affidavit as well as those of his men, Commander Schneider was convinced that the *Arabic* intended to ram the submarine. On the other hand, the Imperial Government does not doubt the good faith of the affidavits of the British officers of the *Arabic*, according to which the *Arabic* did not intend to ram the submarine. The attack of the submarine, therefore, was undertaken against the instructions issued to the commander. The Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly.

Under these circumstances my government is prepared to pay an indemnity for the American lives which to its deep regret have been

lost on the *Arabic*. I am authorized to negotiate with you about the amount of this indemnity.

I remain, etc.,

J. BERNSTORFF.

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*The Secretary of State to the German Ambassador.*

DEPARTMENT OF STATE,  
*Washington, October 6, 1915.*

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your note of yesterday informing me that orders to the commanders of the German submarines have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question; that the attack on the *Arabic* was undertaken against the instructions issued to the Commander of the submarine; and that the Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly. Furthermore, you advise me that your Government is prepared to pay an indemnity for the loss of American lives and that you are authorized to negotiate with me in regard to this indemnity.

In reply I hasten to inform you that I have noted with satisfaction the above assurances of your Government, and I am now prepared to negotiate with you concerning the amount of the indemnity. Steps will be taken at once to come in touch with the interested persons, after which I shall be pleased to communicate with you further in this matter.

I am, etc.,

ROBERT LANSING.

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*Ambassador Gerard to the Secretary of State.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
*Berlin, October 19, 1915.*

Ambassador Gerard reports receipt of a note from the German Foreign Office dated October 16th, relating circumstances of destruction of the *Leelanaw* and citing in justification of the German submarine's commander the Declaration of London and German prize ordinance. In

addition, the note acknowledges applicability of treaty as in the case of the American vessel *Frye*, and states that the *Leelanaw's* papers have been sent to the Hamburg Prize Court, which will pass upon the case. Ambassador Gerard also reports that interested American parties are stated to be represented before the Prize Court.

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*Ambassador Gerard to the Secretary of State.*

No. 1672.]

AMERICAN EMBASSY,  
*Berlin, October 19, 1915.*

With reference to the Department's telegram No. 2022, dated July 31st, 1915, 3 p. m., and to my telegram of even date, No. 3023, I have the honor to transmit herewith a translation of a note received to-day from the Imperial Foreign Office, dated October 16, 1915, relating the facts of the sinking of the American steamer *Leelanaw* by a German submarine on July 25th, 1915.

I have, etc.,

J. W. GERARD.

[Inclosure—Translation.]

No. IIIa. 17397.  
153453.

FOREIGN OFFICE,  
*Berlin, October 16, 1915.*

NOTE VERBALE.

The Foreign Office has the honor to make the following reply to the note verbale of the Embassy of the United States of America, dated August 2, 1915, F. O. No. 4536, relative to the sinking of the American steamer *Leelanaw*.

The steamer mentioned was stopped by a German submarine at 2.10 o'clock on the afternoon of July 25, 1915, in 59 degrees 55 minutes latitude north, and 4 degrees 22 minutes longitude west. According to the ship's papers, she was on a voyage from Archangel to Belfast; the cargo consisted of flax. The commander of the submarine considered the cargo contraband and decided accordingly to sink the vessel and cargo.

He saw to it that the crew of the vessel was safely taken ashore and took the ship's papers of the steamer *Leelanaw* on board the submarine.

Under Article 21, number 22 of the German Prize Ordinance as amended by the Ordinance of April 18, 1915 (*Reichs-Gesetzblatt*, p. 227), flax is to be considered absolute contraband. The Ordinance of April 18, 1915, was communicated to the Embassy of the United States of America by note verbale of April 22, 1915 (IIIa. 8434), with the request that the contents be brought to the knowledge of the American Government. It was possible therefore for the shippers and captain of the steamer *Leelanaw* to have knowledge of the German contraband regulations. The goods were destined for an English port; thus the contraband was liable to seizure without further formality (*vide* Article 30 of the German Prize Ordinance; Article 31 of the Declaration of London). According to value and bulk, the contraband formed more than half the whole cargo; consequently the vessel herself was liable to confiscation (*vide* Article 41, paragraph 2 of the German Prize Ordinance; Article 40 of the Declaration of London). Since the German commander was unable to take the steamer into a German port without exposing the submarine to danger or impairing the success of the operations in which it was engaged, he was justified in destroying the vessel (Article 113 of the German Prize Ordinance; Article 49 of the Declaration of London). He fulfilled his obligation of placing all persons on board and the ship's papers in safety (Article 116 of the German Prize Ordinance; Article 50 of the Declaration of London).

The Commander therefore acted in conformity with the principles of international law. The legality of the measures taken by him is examinable by German prize jurisdiction according to Article 1, number 2, of the German Prize Ordinance (article 51 of the Declaration of London). The ship's papers have already been sent to the Prize Court at Hamburg. This Court will have to decide the questions whether the destruction of the vessel and cargo was legal, whether the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be awarded, provided any claim therefor is before it. It is true that in the present case, as in the case of the *William P. Frye*, the special provisions of Article 13 of the Prussian-American Treaty of July 11, 1799, are to be considered, pursuant to which property belonging to citizens of the United States of America may only be confiscated when its value is restored.

It appears from information received from the Prize Court that the



American shipping interests have already entrusted a Hamburg attorney with the representation of their rights before the Prize Court. The Foreign Office begs to reserve a note concerning the outcome of the prize proceedings.

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*Ambassador Gerard to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*Berlin, October 30, 1915.*

The following note has just been received 10 a. m. from Foreign Office:

Ambassador Count Bernstorff has now reported about the negotiations conducted in Washington, D. C., with reference to the *Arabic* incident, and also communicated to me the text of the letter he addressed to the Secretary of State, Mr. Lansing.

From the ambassador's report I see with satisfaction that a full understanding has been reached between our two Governments.

As Count Bernstorff, acting under instructions of the Imperial Government, has already pointed out, the commander of the submarine that sank the *Arabic* was convinced that the *Arabic* intended to ram his boat. I have since transmitted by mail to Count Bernstorff the evidence on file here—that is, a legalized copy of the report made by the commander of the submarine on September 2, as well as legalized copies of the hearing of the witnesses, conducted on September 21, in the matter of the sinking of the English steamer *Arabic* by a German submarine, together with the diagram and English translations—and have requested him to bring this evidence to the knowledge of the American Government.

I beg to transmit herewith also to Your Excellency copies of the above-mentioned documents, for I trust that Your Excellency's Government will gain from them the conviction that the circumstances as explained in the statements of the witnesses give the commander of the submarine justified reasons for his above-mentioned supposition.

The German Government, on the other hand, as Count Bernstorff has already informed Mr. Lansing, does not want to refuse to credit the affidavit of the English officers of the *Arabic*, according to which no submarine was seen from the *Arabic*. The German Government therefore admits that whereas the commander personally was convinced that he acted in self-defense, there was in fact no attempt made to ram the submarine. I may therefore repeat Count Bernstorff's statement that the attack of the submarine, to our regret, was not in accordance with their instructions issued, and that the commander has been notified accordingly.

As it has been the intention of the Imperial Government to settle the incident in a friendly manner, Count Bernstorff has also been instructed, as you know, to declare to the American Government our readiness to pay, out of friendly consideration and leaving aside the question of the liability resulting from international law, an indemnity for the loss of the American lives which the German Government deeply ( \* \* \* ).<sup>1</sup>

In giving again expression to my satisfaction that Count Bernstorff's negotiations with the Secretary of State, Mr. Lansing, have led to a settlement of the incident, I avail myself of the occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) VON JAGOW.  
GERARD.

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*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 30, 1915.*

Ambassador Gerard is directed to inform the German Foreign Office that the owners of the *Leelanaw* are not represented before the Prize Court and that for the same reason given by the United States Government for refusing to submit the question of the amount of indemnity to be paid in the *William P. Frye* case to the Prize Court, the United States Government desires that the question of the amount of indemnity to be paid in the *Leelanaw* case shall be adjusted by diplomatic negotiations.

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*Communication from German Government delivered by German Ambassador, under instructions.*

GERMAN EMBASSY,  
*Washington (Received January 7, 1916).*

1. German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with general principles of international law, and in particular measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

<sup>1</sup>Apparent omission.

2. German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean—i. e., passenger as well as freight ships as far as they do not try to escape or offer resistance—only after passengers and crews have been accorded safety.

3. All cases of destruction of enemy merchant ships in the Mediterranean in which German submarines are concerned are made the subject of official investigation and, besides, submitted to regular prize court proceedings. In so far as American interests are concerned, the German Government will communicate the result to the American Government. Thus also in the *Persia* case if the circumstances should call for it.

4. If commanders of German submarines should not have obeyed the orders given to them they will be punished; furthermore, the German Government will make reparation for damage caused by death of or injuries to American citizens.

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*Memorandum from the German Embassy.*<sup>1</sup>

J. Nr. A. 1601.]

GERMAN EMBASSY,  
Washington.

MEMORANDUM.

The Imperial German Government, on account of the friendly relations which have always existed between the two great nations and earnestly desiring to continue them, wishes to explain the U boat question once more to the American Government.

At the outbreak of the war the German Government, acting upon the suggestion of the United States, immediately expressed its readiness to ratify the Declaration of London. At that time a German prize code had already been issued, which was entirely—and without modification—based upon the rules of the Declaration of London. Germany thereby proved her willingness to recognize fully the existing rules of international law which ensure the freedom of the sea for the legitimate trade of neutral nations, not only among themselves but also with belligerent countries.

Great Britain, on the other hand, declined to ratify the Declaration of London and, after the outbreak of the war, began to restrict the legit-

<sup>1</sup> Received by the Secretary of State March 8, 1916.

imate trade of the neutrals in order to hit Germany. The contraband provisions were systematically extended on August 5, 20, September 21, and October 29, 1914. On November 3, 1914, the order of the British Admiralty followed, declaring the whole North Sea a war zone, in which commercial shipping would be exposed to most serious dangers from mines and men-of-war. Protests from neutrals were of no avail, and from that time on the freedom of neutral commerce with Germany was practically destroyed. Under these circumstances Germany was compelled to resort, in February, 1915, to reprisals in order to fight her opponents' measures, which were absolutely contrary to international law. She chose for this purpose a new weapon, the use of which had not yet been regulated by international law and, in doing so, could and did not violate any existing rules but only took into account the peculiarity of this new weapon, the submarine boat.

The use of the submarine naturally necessitated a restriction of the free movements of neutrals and constituted a danger for them which Germany intended to ward off by a special warning analogous to the warning England had given regarding the North Sea.

As both belligerents—Germany in her note of February 17 and Great Britain in those of February 18 and 20, 1915—claimed that their proceeding was only enacted in retaliation for the violation of international law by their opponents, the American Government approached both parties for the purpose of trying to reestablish international law as it had been in force before the war. Germany was asked to adapt the use of her new weapon to the rules which had been existing for the former naval weapons and England not to interfere with the food supplies intended for the noncombatant German population and to admit their distribution under American supervision. Germany, on March 1, 1915, declared her willingness to comply with the proposal of the American Government, whilst England, on the other hand, declined to do so. By the Order in Council of March 11, 1915, Great Britain abolished even what had remained of the freedom of neutral trade with Germany and her neutral neighbors. England's object was to starve Germany into submission by these illegal means.

Germany, after neutral citizens had lost their lives against her wish and intention, nevertheless, in the further course of the war, complied with the wishes of the American Government regarding the use of submarines. The rights of neutrals regarding legal trading were, in fact, nowhere limited by Germany.

Then England made it impossible for submarines to conform with the old rules of international law by arming nearly all merchantmen and by ordering the use of the guns on merchant vessels for attack. Photographic reproductions of those instructions have been transmitted to neutral Governments with the memorandum of the German Government of February 8, 1916. These orders are obviously in contradiction with the note delivered by the British Ambassador in Washington to the American Government on August 25, 1914. On account of the proposals made by the United States on January 23, 1916, regarding disarmament, the Imperial Government hoped that these facts would enable the neutral Governments to obtain the disarmament of the merchant ships of her opponents. The latter, however, continued with great energy to arm their merchantmen with guns.

The principle of the United States Government not to keep their citizens off belligerent merchant ships has been used by Great Britain and her allies to arm merchant ships for offensive purposes. Under these circumstances merchantmen can easily destroy submarines, and, if their attack fails, still consider themselves in safety by the presence of American citizens on board.

The order to use arms on British merchantmen was supplemented by instructions to the masters of such ships to hoist false flags and to ram U boats. Reports on payments of premiums and bestowals of decorations to successful masters of merchantmen show the effects of these orders. England's allies have adopted this position.

Now Germany is facing the following facts:

(a) A blockade contrary to international law (compare American note to England of November 5, 1915)<sup>1</sup> has for one year been keeping neutral trade from German ports and is making German exports impossible.

(b) For 18 months, through the extending of contraband provisions in violation of international law (compare American note to England of November 5, 1915), the overseas trade of neighboring neutral countries, so far as Germany is concerned, has been hampered.

(c) The interception of mails in violation of international law (compare American memorandum to England of January 10, 1916)<sup>2</sup> is meant to stop any intercourse of Germany with foreign countries.

<sup>1</sup> This note embodied the instructions from the Secretary of State sent October 21, 1915, printed *supra*, p. 73.

<sup>2</sup> Embodied in telegram from the Secretary of State sent January 4, 1916, printed *infra*, p. 404.

(d) England, by systematically and increasingly oppressing neutral countries, following the principle of "might before right," has prevented neutral trade on land with Germany so as to complete the blockade of the central powers intended to starve their civil population.

(e) Germans met by our enemies on the high seas are deprived of their liberty no matter whether they are combatants or noncombatants.

(f) Our enemies have armed their merchant vessels for offensive purposes, theoretically making it impossible to use our U boats according to the principles set forth in London Declaration (compare American memorandum of February 8, 1916).<sup>3</sup>

The English white book of January 5, 1916, on the restriction of German trade, boasts that by British measures Germany's export trade has been stopped almost entirely, whilst her imports are subject to England's will.

The Imperial Government feels confident that the people of the United States, remembering the friendly relations that for the last hundred years have existed between the two nations, will, in spite of the difficulties put into the way by our enemies, appreciate the German viewpoint as laid down above.

J. BERNSTORFF.

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*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 27, 1916.*

Mr. Gerard is informed that considerable evidence has been received by the Department to the effect that the steamship *Sussex* with several American citizens among the passengers was sunk by a submarine torpedo on the 24th instant, and he is directed to inquire immediately of the German Foreign Office whether a submarine belonging to Germany or her allies sunk the *Sussex*. The Department expects a prompt reply.

<sup>3</sup> This seems to refer to the "Memorandum of the Imperial German Government on the Treatment of Armed Merchantmen," dated February 8, 1916, printed *infra*, p. 315.

*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1916.*

Mr. Gerard is informed of Department's advices that the *Englishman*, a steamer of the Dominion Line, was torpedoed March 21 after departure from Avonmouth for Portland, Me. The *Englishman* was a horse ship carrying several Americans on board and the survivors' list does not include some of them.

Mr. Gerard is asked to inquire immediately of the German authorities whether the submarine which sank the vessel belonged to Germany or her allies and to add that the United States Government expects a prompt answer.

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*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 29, 1916.*

Mr. Lansing states that the Department has been advised that on March 27 the ship *Manchester Engineer* with American citizens on board was torpedoed off Waterford without warning.

Mr. Gerard is directed to make inquiry of the German Foreign Minister as to whether a submarine of Germany or her allies sank the *Manchester Engineer*.

The Department expects a prompt answer.

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*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, April 1, 1916.*

Mr. Lansing states that information has been received by the Department that the *Eagle Point*, a British steamer with Americans aboard,

was torpedoed on March 28, after surrender. The vessel was bound from St. Johns, New Brunswick, to Cherbourg, France, and those on board were left 130 miles south of Queenstown in two small boats, with a stormy wind blowing, in a heavy sea.

Mr. Gerard is directed to inquire immediately of the German Government whether a submarine belonging to Germany or her allies torpedoed the *Eagle Point*. A prompt reply is expected by the Department.

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*The Secretary of State to Ambassador Gerard.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE.

*Washington, April 1, 1916.*

Mr. Lansing states that the Department is in receipt of information that the *Berwindvale*, a British steamer with four Americans on board, was on March 16 torpedoed off Bantry, Ireland, without warning. Apparently the *Berwindvale* was coming to the United States for cargo.

Mr. Gerard is directed to inquire of the German Government whether a submarine of Germany or her allies torpedoed the *Berwindvale*. The Department expects a prompt reply.

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*Ambassador Gerard to the Secretary of State.*

[Telegram.]

No. 3735.]

AMERICAN EMBASSY,  
*Berlin, April 11, 1916.*

Following note just received:

FOREIGN OFFICE,  
*Berlin, April 10, 1916.*

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, ambassador of the United States of America, in reply to the notes of the 29th and 30th ultimo and the 3d instant on the subject of the steamers *Sussex*, *Manchester Engineer*, *Englishman*, *Berwindvale*, and *Eagle Point*, that the cases mentioned have been subjected to a careful investigation by the Admiralty Staff of the Navy, in accordance with



my notes of the 30th and 31st ultimo and the 4th and 5th instants, and that all this investigation has led to the following results:

One. English steamer *Berwindvale*.—A steamer, which was possibly the *Berwindvale*, was encountered by a German submarine on the evening of the 16th of March within sight of Bullrock Light on the Irish coast. As soon as the steamer noticed the submarine, which was traveling on the surface, she turned and ran away. She was called upon to stop by a shot of warning, but did not heed this warning, put out all her lights, and tried to escape. She was thereupon shelled until she stopped and lowered several boats without receiving further orders. After the crew had entered the boats and had sufficient time to pull off to a distance the ship was sunk.

The name of this steamer has not been ascertained. Even with the help of the data furnished by the American Embassy it is not possible to say with certainty that the incident described above relates to the steamer *Berwindvale*. But since the steamer sunk was a tank steamer, like the *Berwindvale*, it may be assumed that the vessels are identical; in this case, however, the statement of the embassy that the *Berwindvale* was torpedoed without warning would conflict with the facts.

Two. English steamer *Englishman*.—On March 24 this steamer was ordered to stop by two shots of warning by a German submarine about 20 nautical miles west of Islay, but continued on her course without paying any attention to the warning and was therefore forced to stop by the submarine by means of artillery fire after a long pursuit; she then lowered boats without receiving further orders. After the German commander had convinced himself that the crew had entered the boats and pulled away from the vessel he sank the steamer.

Three. English steamer *Manchester Engineer*.—It has not been possible to ascertain by the investigation conducted as yet whether the attack on this steamer, which took place off Waterford on March 27 according to the statements of the embassy, is traceable to a German submarine. The data furnished regarding the place and time of the incident do not afford a sufficient clue for the investigation. The receipt of more exact details concerning place, time, and attendant circumstances of the attack reported to the American Government would therefore be desired in order that the investigation may then be brought to a conclusion.

Four. English steamer *Eagle Point*.—On the morning of March 28 this steamer was ordered to stop by a German submarine by signal and shot about 100, not 130, nautical miles from the southwest coast of Ireland, but she continued on her course. She was thereupon shelled until she stopped, and without receiving further orders lowered two boats which the crew entered. After the commander had convinced himself that the boats, which had hoisted sails, had gotten clear of the steamer he sank her.

At the time of the sinking a north-northwest wind of the second strength was blowing, not a "stormy wind," and there was a slight roll

against the wind, not a "heavy sea," as asserted in the Embassy's statement of the facts. The boats furthermore had every prospect of being picked up very soon, since the place of the sinking was on one of the much used steamer routes. If the crew of the steamer in rescuing themselves made use of only two small boats they are themselves to blame, for there were at least four large folding boats on the steamer, as the submarine was able to ascertain.

Five. French steamer *Sussex*.—The establishment of the fact whether the channel steamer *Sussex* was damaged by a German submarine or not has been made extraordinarily difficult, because no exact data concerning place, time, and attendant circumstances of the sinking were known and no picture of this vessel could be obtained until April 6. Consequently the investigation had to embrace every one of the undertakings which took place in the channel on or near the route between Folkestone and Dieppe on March 24, the day in question.

In this locality a long black vessel without a flag, with a gray smokestack and a small gray superstructure, and with two tall masts, was encountered by a German submarine on March 24 about the middle of the English Channel. The German commander gained the definite conviction that he had before him a war vessel, a mine layer of the newly constructed English *Arabic* class. He was led to this conviction, one, by the flush deck of the vessel; two, by the warship form of stern, protruding diagonally backward and then falling downward; three, by the warship like coat of paint; four, by the high speed of about 18 sea miles developed by the vessel; five, by the circumstance that the vessel did not follow the course to the north of the lightbuoys between Dungeness and Beachy Head, which is the customary course for merchant shipping according to the frequent and uniform observations of the German submarines, but sailed in the middle of the channel, pointing about for Havre. He consequently attacked the ship submerged at 3.55 o'clock p. m., Central European time,  $1\frac{1}{2}$  sea miles southeast of Bullrock Bank. The torpedo struck and caused such a severe explosion in the foreship that the whole foreship was torn loose up to the bridge. The particularly severe explosion permits the safe conclusion that there were large quantities of ammunition on board.

The German commander has made a sketch of the vessel attacked by him, two reproductions of which are attached. The picture of the steamer *Sussex*, two copies of which are likewise attached, is a photograph taken from the English *Daily Graphic* paper of the 27th ultimo. A comparison of the sketch with the picture shows that the *Sussex* is not identical with the vessel attacked; the difference in the position of the smokestacks and the shape of the stern is particularly prominent. No further attack whatever was made by German submarines at the time coming into question for the *Sussex* on the way between Folkestone and Dieppe.

From this the German Government is forced to assume that the damaging of the *Sussex* is to be attributed to another cause than the

attack of a German submarine. In order that the true state of affairs may be cleared up, the fact may possibly be of use that on the 1st and 2d of April alone no less than 26 English mines were exploded by German naval forces in the channel; the whole of that part of the seas is dangerous owing to floating mines and torpedoes which have not sunk. The waters near the English coast will be still more dangerous on account of German mines also which have been sowed against the hostile naval forces.

Should the American Government have at its disposal further material for forming judgment on the case of the *Sussex* the German Government begs to request that this material may be communicated to it in order that it may be able to subject this material to an examination also. In the event of differences of opinion arising between the two Governments in this connection, the German Government declares at this time its readiness to permit the facts to be ascertained by a mixed committee of investigation, pursuant to the third title of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

The undersigned requests that the above be brought to the knowledge of the Government of the United States and avails himself of this opportunity to renew, etc.

VON JAGOW.  
GERARD.

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*The Secretary of State to Ambassador Gerard.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, April 18, 1916.*

You are instructed to deliver to the Secretary of Foreign Affairs a communication reading as follows:

I did not fail to transmit immediately, by telegraph, to my Government Your Excellency's note of the 10th instant in regard to certain attacks by German submarines, and particularly in regard to the disastrous explosion which on March 24, last, wrecked the French steamship *Sussex* in the English Channel. I have now the honor to deliver, under instructions from my Government, the following reply to Your Excellency:

Information now in the possession of the Government of the United States fully establishes the facts in the case of the *Sussex*,<sup>1</sup> and the in-

<sup>1</sup> The text of the evidence is printed in an appendix, *infra*, p. 230.

ferences which my Government has drawn from that information it regards as confirmed by the circumstances set forth in Your Excellency's note of the 10th instant. On the 24th of March, 1916, at about 2.50 o'clock in the afternoon, the unarmed steamer *Sussex*, with 325 or more passengers on board, among whom were a number of American citizens, was torpedoed while crossing from Folkestone to Dieppe. The *Sussex* had never been armed; was a vessel known to be habitually used only for the conveyance of passengers across the English Channel; and was not following the route taken by troop ships or supply ships. About 80 of her passengers, noncombatants of all ages and sexes, including citizens of the United States, were killed or injured.

A careful, detailed, and scrupulously impartial investigation by naval and military officers of the United States has conclusively established the fact that the *Sussex* was torpedoed without warning or summons to surrender and that the torpedo by which she was struck was of German manufacture. In the view of the Government of the United States these facts from the first made the conclusion that the torpedo was fired by a German submarine unavoidable. It now considers that conclusion substantiated by the statements of Your Excellency's note. A full statement of the facts upon which the Government of the United States has based its conclusion is inclosed.

The Government of the United States, after having given careful consideration to the note of the Imperial Government of the 10th of April, regrets to state that the impression made upon it by the statements, and proposals contained in that note is that the Imperial Government has failed to appreciate the gravity of the situation which has resulted, not alone from the attack on the *Sussex* but from the whole method and character of submarine warfare as disclosed by the unrestrained practice of the commanders of German undersea craft during the past twelvemonth and more in the indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations. If the sinking of the *Sussex* had been an isolated case the Government of the United States might find it possible to hope that the officer who was responsible for that act had wilfully violated his orders or had been criminally negligent in taking none of the precautions they prescribed, and that the ends of justice might be satisfied by imposing upon him an adequate punishment, coupled with a formal disavowal of the act and payment of a suitable indemnity by the Imperial Government. But, though the attack upon the *Sussex* was manifestly indefensible and

caused a loss of life so tragical as to make it stand forth as one of the most terrible examples of the inhumanity of submarine warfare as the commanders of German vessels are conducting it, it unhappily does not stand alone.

On the contrary, the Government of the United States is forced by recent events to conclude that it is only one instance, even though one of the most extreme and most distressing instances, of the deliberate method and spirit of indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations which have become more and more unmistakable as the activity of German undersea vessels of war has in recent months been quickened and extended.

The Imperial Government will recall that when, in February, 1915, it announced its intention of treating the waters surrounding Great Britain and Ireland as embraced within the seat of war and of destroying all merchant ships owned by its enemies that might be found within that zone of danger, and warned all vessels, neutral as well as belligerent, to keep out of the waters thus proscribed or to enter them at their peril, the Government of the United States earnestly protested. It took the position that such a policy could not be pursued without constant gross and palpable violations of the accepted law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law, rules founded on the principles of humanity and established for the protection of the lives of noncombatants at sea, could not in the nature of the case be observed by such vessels. It based its protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks; and that no right to close any part of the high seas could lawfully be asserted by the Imperial Government in the circumstances then existing. The law of nations in these matters, upon which the Government of the United States based that protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest principles of humanity and has long been established with the approval and by the express assent of all civilized nations.

The Imperial Government, notwithstanding, persisted in carrying out the policy announced, expressing the hope that the dangers involved, at any rate to neutral vessels, would be reduced to a minimum by the instructions which it had issued to the commanders of its submarines, and assuring the Government of the United States that it would take

every possible precaution both to respect the rights of neutrals and to safeguard the lives of noncombatants.

In pursuance of this policy of submarine warfare against the commerce of its adversaries, thus announced and thus entered upon in despite of the solemn protest of the Government of the United States, the commanders of the Imperial Government's undersea vessels have carried on practices of such ruthless destruction which have made it more and more evident as the months have gone by that the Imperial Government has found it impracticable to put any such restraints upon them as it had hoped and promised to put. Again and again the Imperial Government has given its solemn assurances to the Government of the United States that at least passenger ships would not be thus dealt with, and yet it has repeatedly permitted its undersea commanders to disregard those assurances with entire impunity. As recently as February last it gave notice that it would regard all armed merchantmen owned by its enemies as part of the armed naval forces of its adversaries and deal with them as with men-of-war, thus, at least by implication, pledging itself to give warning to vessels which were not armed and to accord security of life to their passengers and crews; but even this limitation their submarine commanders have recklessly ignored.

Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed along with vessels of belligerent ownership in constantly increasing numbers. Sometimes the merchantmen attacked have been warned and summoned to surrender before being fired on or torpedoed; sometimes their passengers and crews have been vouchsafed the poor security of being allowed to take to the ship's boats before the ship was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. Great liners like the *Lusitania* and *Arabic* and mere passenger boats like the *Sussex* have been attacked without a moment's warning, often before they have even become aware that they were in the presence of an armed ship of the enemy, and the lives of non-combatants, passengers, and crew have been destroyed wholesale and in a manner which the Government of the United States can not but regard as wanton and without the slightest color of justification. No limit of any kind has in fact been set to their indiscriminate pursuit and destruction of merchantmen of all kinds and nationalities within the waters which the Imperial Government has chosen to designate as lying within the seat of war. The roll of Americans who have lost their lives upon

ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy it has sought to be governed by the most thoughtful consideration of the extraordinary circumstances of an unprecedented war and to be guided by sentiments of very genuine friendship for the people and Government of Germany. It has accepted the successive explanations and assurances of the Imperial Government as of course given in entire sincerity and good faith, and has hoped, even against hope, that it would prove to be possible for the Imperial Government so to order and control the acts of its naval commanders as to square its policy with the recognized principles of humanity as embodied in the law of nations. It has made every allowance for unprecedented conditions and has been willing to wait until the facts became unmistakable and were susceptible of only one interpretation.

It now owes it to a just regard for its own rights to say to the Imperial Government that that time has come. It has become painfully evident to it that the position which it took at the very outset is inevitable, namely, the use of submarines for the destruction of an enemy's commerce, is, of necessity, because of the very character of the vessels employed and the very methods of attack which their employment of course involves, utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of noncombatants.

If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether. This action the Government of the United States contemplates with the greatest reluctance but feels constrained to take in behalf of humanity and the rights of neutral nations.

LANSING.

## STATEMENT OF FACTS IN "SUSSEX" CASE.

ACCOMPANYING NOTE TO GERMAN GOVERNMENT OF APRIL 18, 1916.

The French channel steamer *Sussex*, employed regularly in passenger service between the ports of Folkestone, England, and Dieppe, France, as it had been for years (Statement of the French Ministry of Foreign Affairs <sup>1</sup>), left Folkestone for Dieppe at 1.25 p. m., March 24, 1916, with 325 or more passengers and a crew of 53 men. (Declaration of Captain Mouffet; <sup>2</sup> report of Rear Admiral Grasset.<sup>3</sup>) The passengers, among whom were about 25 American citizens (Telegram London Embassy, March 25,<sup>4</sup> and Paris Embassy, March 26 <sup>4</sup> and 28 <sup>4</sup>) were of several nationalities and many of them were women and children and nearly half of them subjects of neutral states. (Report of Commander Sayles and Lieutenant Smith; <sup>5</sup> Rear Admiral Grasset's report.<sup>3</sup>) The *Sussex* carried no armament (Statement of French Ministry of Foreign Affairs; <sup>1</sup> report of Commander Sayles and Lieutenant Smith,<sup>5</sup> affidavits of American passengers), has never been employed as a troop ship, and was following a route not used for transporting troops from Great Britain to France. (British Admiralty statement; <sup>4</sup> Statement of French Ministry of Foreign Affairs.<sup>1</sup>)

The steamer proceeded on its course almost due south after passing Dungeness. (Declaration of Captain Mouffet.<sup>2</sup>) The weather was clear and the sea smooth. (Affidavits of Edna Hale,<sup>6</sup> John H. Hearley,<sup>7</sup> Gertrude W. Warren.<sup>8</sup>) At 2.50 p. m., when the *Sussex* was about 13 miles from Dungeness (Declaration of Captain Mouffet <sup>2</sup>), the captain of the vessel, who was on the bridge, saw about 150 meters from the ship, on the port side, the wake of a torpedo. (Declaration of Captain Mouffet.<sup>2</sup>) It was also seen very clearly by the first officer and the boatswain who were with the captain on the bridge. (Report of Rear Admiral Grasset.<sup>3</sup>) Immediately the captain gave orders to port the helm and stop the starboard engine (Declaration of Captain Mouffet <sup>2</sup>), the purpose being to swing the vessel to starboard so as to dodge the torpedo by allowing it to pass along the port bow on a line converging with the altered course of the steamer. Before, however, the vessel could be

<sup>1</sup> See pp. 230 and 289.<sup>2</sup> See p. 246.<sup>3</sup> See p. 279.<sup>4</sup> Not printed.<sup>5</sup> See p. 287.<sup>6</sup> See p. 275.<sup>7</sup> See p. 266.<sup>8</sup> See p. 259.



turned far enough to avoid crossing the course of the torpedo, the latter struck the hull at an angle a short distance forward of the bridge, exploded, destroyed the entire forward part of the steamer as far back as the first water-tight bulkhead, carried away the foremast with the wireless antennæ and killed or injured about 80 of the persons on board, (Declaration of Captain Mouffet;<sup>2</sup> report of Rear Admiral Grasset;<sup>3</sup> deposition of Henry S. Beer.<sup>9</sup>) At the time no other vessel was in sight. (Affidavits of Samuel F. Bemis,<sup>10</sup> T. W. Culbertson,<sup>11</sup> John H. Hearley,<sup>6</sup> and others.<sup>12</sup>)

The approach of the torpedo was witnessed by several other persons on the vessel. (Affidavits of Samuel F. Bemis,<sup>10</sup> Henry S. Beer,<sup>9</sup> Gertrude W. Warren.<sup>8</sup>) One of these, an American citizen named Henry S. Beer, was leaning on the port rail about 10 feet behind the bridge and gazing seaward when he saw the approaching torpedo about 100 yards away and exclaimed to his wife and companion: "A torpedo!" Immediately following his exclamation the missile struck the vessel. (Depositions of Henry S. Beer<sup>9</sup> and Mrs. Henry S. Beer.<sup>13</sup>)

In further corroboration of the fact, that the captain saw the torpedo coming toward the vessel, is the sworn statement of the engineers on duty that the order to port the helm and to stop the starboard engine was received and obeyed. (Report of Admiral Grasset.<sup>3</sup>) No reasonable explanation can be given for this unusual order other than that the captain saw something which caused him to change his course sharply to starboard.

In addition to this evidence which would in itself appear to be conclusive that the agent of destruction was a torpedo, is that of Lieutenant Smith, United States Navy, attached to the American Embassy at Paris, who, accompanied by Major Logan, United States Army, of the Embassy, went to Boulogne, inspected the hull of the *Sussex* and personally found beneath the mass of water-soaked debris of the wreck 15 pieces of metal,<sup>14</sup> which they retained in their possession as they did not believe the pieces formed part of the vessel. The inspection of the hull disclosed that the vessel was wrecked by an external explosion, the boilers being intact, and that a short distance forward of the bridge was a large dent showing that the vessel had received a heavy blow, the direction of

<sup>9</sup> See p. 274.

<sup>10</sup> See p. 249.

<sup>11</sup> See p. 253.

<sup>12</sup> See affidavits, pp. 253, 257, 259, 260, 262, 264, 269, 271, 275.

<sup>13</sup> See p. 287.

<sup>14</sup> See pp. 283, 290, and 293.

impact being from abaft the beam along a line at an acute angle with the keel of the vessel. (Report of Lieutenant Smith, cabled April 1.<sup>15</sup>) This evidence coincides with and corroborates the statement that the vessel was swinging to starboard and away from the torpedo when struck.

The pieces of metal, which the American officers had collected, were compared by Lieutenant Smith, Lieutenant Commander Sayles and Major Logan with mines and plans of mines in possession of the French Naval authorities at Boulogne, Rochefort, and Toulon, and British Naval authorities at Portsmouth. These officers are positive in their opinion that these pieces of metal were not parts of a mine. (Report of Lieutenant Smith, cabled April 1 and 5.<sup>16</sup>)

Among these 15 pieces of metal were two screw-bolts showing the effects of an explosion, which were stamped with "K" and "56" on faces of the head of one, and "K" and "58" on faces of the head of the other. On examining German torpedoes in the possession of the French Naval authorities at Toulon, and of the English Naval authorities at Portsmouth, the American officers found that identical screws with the letter "K" and a number were employed to fasten the "war" head (kopf) to the air chamber. (Lieutenant Smith's reports, cabled April 2, 5, and 13.<sup>17</sup>)

The screws used in French and English torpedoes have no markings and are of a slightly different size. (Same reports.) Furthermore, the American officers were able by comparison and close examination to positively identify and locate all the remaining 13 pieces of metal as parts of a German torpedo, as follows:

Fragment 3, part of inner seat of water relief valve of engine valve.

Fragments 4 and 5, punto bands of engine-room casing.

Fragments 6 to 10 inclusive and 12, parts of engine cylinders.

Fragments 11, 13, 14, 15, parts of steel war head still bearing the distinctive red paint common to German torpedo war heads. (Report of Lieutenant Smith,<sup>18</sup> cabled April 5.)

In view of these authenticated facts there can be no reasonable doubt but that the *Sussex* was torpedoed and that the torpedo was of German manufacture. As no vessel was seen by any person on the *Sussex*, the conclusion is irresistible that the torpedo was launched without warning from a submarine which was submerged at the time of the attack and remained beneath the surface after the explosion.

<sup>15</sup> See report dated March 30, p. 230.

<sup>16</sup> See pp. 283 and 287.

<sup>17</sup> See pp. 230, 283, 290, 293.

<sup>18</sup> See p. 287.

The conclusion thus reached from the evidence (the affidavits being those of American citizens) collected by the Department of State is substantiated by the statements in the Imperial Government's note of April 10, 1916. According to those statements—

(a) A German submarine torpedoed a steamer  $1\frac{1}{2}$  miles southeast of Bull Rock Bank.

*Department's comment.*—The point of attack is exactly in the course which was taken by the *Sussex* after passing Dungeness and about  $\frac{1}{2}$  mile from the place where the captain of the *Sussex* states he was torpedoed.

(b) The attack took place at 3.55 o'clock p. m., Central European time.

*Department's comment.*—3.55 p. m., Central European time would correspond to 2.55 p. m., Western European time. The time of the striking of the torpedo according to the captain of the *Sussex*, and the stopping of the clocks on board the vessel, was 2.50 p. m., Western time.

(c) The torpedo, when it struck, caused an explosion which tore away the whole foreship up to the bridge.

*Department's comment.*—The forepart of the *Sussex* was wrecked as far back as the first water-tight bulkhead, according to the official reports.

(d) The German submarine was submerged when the torpedo was launched and there is no statement that it came to the surface after the attack.

*Department's comment.*—The conclusion was reached that the submarine was submerged from the fact that no one on the *Sussex* saw a submarine though the weather was fine.

(e) No warning was given and no attempt was made to give one since it is not mentioned.

*Department's comment.*—The evidence collected shows affirmatively no warning was given.

(f) A sketch by the submarine commander of the steamer which he torpedoed does not agree with a photograph of the *Sussex* in the London Graphic.

*Department's comment.*—This sketch was apparently made from memory of an observation of the vessel through a periscope. As the only differences noted by the commander, who relied on his memory, were the position of the smokestack and the shape of the stern, it is to be presumed the vessels were similar in other respects.

(g) No other German submarines on that day attacked steamers in that locality.

*Department's comment.*—As no vessel is reported to have been torpedoed without warning by a submerged submarine other than the *Sussex*, it is beyond question that that vessel was torpedoed by the submarine whose commander's report is relied upon in the note of April 10.

LANSING.

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*Ambassador Gerard to the Secretary of State.*

[Telegram.]

No. 3848.]

AMERICAN EMBASSY,  
*Berlin, May 4, 1916.*

Following is the text of the note handed to me both in German and English at 5.30 this afternoon by Secretary of State for Foreign Affairs:

FOREIGN OFFICE,  
*Berlin, May 4, 1916.*

The undersigned, on behalf of the Imperial Government, has the honor to present to His Excellency the Ambassador of the United States, Mr. James W. Gerard, the following reply to the note of April 20 regarding the conduct of German submarine warfare:

The German Government has handed over to the proper naval authorities for further investigation the evidence concerning the *Sussex*, as communicated by the Government of the United States. Judging by results that this investigation has hitherto yielded, the German Government is alive to the possibility that the ship mentioned in the note of April 10 as torpedoed by a German submarine is actually identical with the *Sussex*. The German Government begs to reserve further communications on the matter until certain points are ascertained which are of decisive importance for establishing the facts of the case. Should it turn out that the commander was wrong in assuming the vessel to be a man-of-war the German Government will not fail to draw the consequences resulting therefrom.

In connection with the case of the *Sussex*, the Government of the United States has made a series of statements, gist of which is the assertion that this incident is to be considered as one instance for the deliberate method of indiscriminate destruction of vessels of all sorts, nationalities, and destinations by German submarine commanders.

The German Government must emphatically repudiate this assertion. The German Government, however, thinks it of little avail to enter into details in the present stage of affairs, more particularly as the Government of the United States has omitted to substantiate this assertion by reference to concrete facts. The German Government will only state that it has imposed far-reaching restraints upon the use of the submarine weapon solely in consideration of the interests of neutrals, in spite of the fact that these restrictions are necessarily of advantage to Germany's enemies; no such consideration has ever been shown to the neutrals by Great Britain and her allies.

The German submarine forces have had, in fact, orders to conduct submarine warfare in accordance with the general principles of visit and search and destruction of merchant vessels as recognized by international law, the sole exception being the conduct of warfare against the enemy trade carried on enemy freight ships that are encountered in the war zone surrounding Great Britain; with regard to these no assurances have ever been given to the Government of the United States; no such assurance was contained in the declaration of February 8, 1916. The German Government can not admit any doubt that these orders have been given and are executed in good faith. Errors have actually occurred; they can in no kind of warfare be avoided altogether, and allowances must be made in the conduct of naval warfare against an enemy resorting to all kinds of ruses, whether permissible or illicit. But, apart from the possibility of errors, naval warfare, just like warfare on land, implies unavoidable dangers for neutral persons and goods entering the fighting zone. Even in cases where naval action was confined to their ordinary forms of cruiser warfare, neutral persons and goods have repeatedly come to grief. The German Government has repeatedly and explicitly pointed out the dangers from mines that have led to the loss of numerous ships. The German Government has made several proposals to the Government of the United States in order to reduce to a minimum for American travelers and goods the inherent dangers of naval warfare. Unfortunately the Government of the United States has decided not to accept these proposals; had it accepted, the Government of the United States would have been instrumental in preventing the greater part of the accidents that American citizens have met with in the meantime. The German Government still stands by its offer to come to an agreement along these lines.

As the German Government has repeatedly declared, it can not dispense with the use of the submarine weapon in the conduct of warfare against enemy trade. The German Government, however, has now decided to make a further concession in adapting the methods of submarine warfare to the interests of the neutrals; in reaching this decision the German Government has been actuated by considerations which are above the level of the disputed question.

The German Government attaches no less importance to the sacred principles of humanity than the Government of the United States.

Again, it fully takes into account that both Governments have for many years coöperated in developing international law in conformity with these principles, the ultimate object of which has been always to confine warfare on sea and on land to the armed forces of the belligerents and to safeguard, as far as possible, noncombatants against the horrors of war.

But, although those considerations are of great weight, they alone would not, under the present circumstances, have determined the attitude of the German Government.

For, in answer to the appeal made by the United States Government on behalf of the sacred principles of humanity and international law, the German Government must repeat once more with all emphasis that it was not the German but the British Government which, ignoring all the accepted rules of international law, has extended this terrible war to the lives and property of noncombatants, having no regard whatever for the interests and rights of the neutrals and noncombatants that through this method of warfare have been severely injured.

In self-defense against the illegal conduct of British warfare, while fighting a bitter struggle for her national existence, Germany had to resort to the hard but effective weapon of submarine warfare. As matters stand, the German Government can not but reiterate its regret that the sentiments of humanity which the Government of the United States extends with such fervor to the unhappy victims of submarine warfare are not extended with the same warmth of feeling to the many millions of women and children who, according to the avowed intentions of the British Government, shall be starved and who, by their sufferings, shall force the victorious armies of the central powers into ignominious capitulation. The German Government, in agreement with the German people, fails to understand this discrimination, all the more as it has repeatedly and explicitly declared itself ready to use the submarine weapon in strict conformity with the rules of international law as recognized before the outbreak of the war, if Great Britain were likewise ready to adapt her conduct of warfare to these rules. The several attempts made by the Government of the United States to prevail upon the British Government to act accordingly have failed because of the flat refusal on the part of the British Government. Moreover, Great Britain has ever since again and again violated international law, surpassing all bounds in outraging neutral rights. The latest measure adopted by Great Britain, declaring German bunker coal as contraband and establishing conditions under which alone English bunker coal shall be supplied to neutrals, is nothing but an unheard of attempt, by way of exaction, to force neutral tonnage into the service of the British trade war.

The German people knows that the Government of the United States has the power to confine this war to the armed forces of the belligerent countries in the interest of humanity and the maintenance of international law. The Government of the United States would have been

certain of attaining this end had it been determined to insist against Great Britain on its incontestable rights to the freedom of the seas. But, as matters stand, the German people is under the impression that the Government of the United States, while demanding that Germany, struggling for her existence, shall restrain the use of an effective weapon, and while making the compliance with these demands a condition for the maintenance of relations with Germany, confines itself to protests against the illegal methods adopted by Germany's enemies. Moreover, the German people knows to what a considerable extent its enemies are supplied with all kinds of war material from the United States.

It will therefore be understood that the appeal made by the Government of the United States to the sentiments of humanity and to the principles of international law can not, under the circumstances, meet with the same hearty response from the German people which such an appeal is otherwise always certain to find here. If the German Government, nevertheless, has resolved to go to the utmost limit of concessions, it has not alone been guided by the friendship connecting the two great nations for over a hundred years, but it also has thought of the great doom which threatens the entire civilized world should this cruel and sanguinary war be extended and prolonged.

The German Government, conscious of Germany's strength, has twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe.

The German Government feels all the more justified to declare that the responsibility could not be borne before the forum of mankind and history if, after 21 months' duration of the war, the submarine question under discussion between the German Government and the Government of the United States were to take a turn seriously threatening the maintenance of peace between the two nations.

As far as it lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, as principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

But neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an

effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it is violated.

Accordingly, the German Government is confident that, in consequence of the new orders issued to its naval forces, the Government of the United States will now also consider all impediments removed which may have been in the way of a mutual coöperation towards the restoration of the freedom of the seas during the war as suggested in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war as they are laid down in the notes presented by the Government of the United States to the British Government on December 28, 1914, and November 5, 1915. Should the steps taken by the Government of the United States not attain the object it desires to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve itself complete liberty of decision.

The undersigned avails himself of this occasion to renew to the American Ambassador the assurances of his highest consideration.

VON JAGOW.

Foreign Office informs me note will be given out here to the German newspapers and American correspondents late to-morrow afternoon.

GERARD.

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*The Secretary of State to Ambassador Gerard.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 8, 1916.*

You are instructed to deliver to the Minister of Foreign Affairs a communication textually as follows:

The note of the Imperial German Government under date of May 4, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it "is prepared to do its



utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents," and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted. Throughout the months which have elapsed since the Imperial Government announced, on February 4, 1915, its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and non-combatants. Responsibility in such matters is single, not joint; absolute, not relative.

LANSING.

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*The German Ambassador to the Secretary of State.*

GERMAN EMBASSY,  
*Washington, May 12, 1916.*

MR. SECRETARY OF STATE: A German submarine, in January, last, signaled with flags from a distance the Dutch steamer *Bandoeng* to stop. Instead of immediately complying with that summons, permissible under international law, the Dutch steamer turned at high speed on the submarine, whose commander, on the assumption warranted by the circumstances that he had to do with an English ship in disguise bent on

attacking him, then opened fire on her. The steamer *Bandoeng* then stopped and sent over a boat for the examination of the ship's papers. On being asked about his captain's proceeding, the Dutch officer in command of the boat explained that he wanted to come nearer the submarine so as to shorten the visitation formalities.

The Imperial Government finds in the incident occasion to suggest to the neutral Governments that the masters of their merchant ships be given to understand that in the event of thus being stopped by German public vessels the provisions of international law must be observed to the letter and that their special attention be called to the danger incurred by turning their ships on a submarine. Thus alone can incidents of the foregoing description be avoided, the responsibility for which would exclusively lie upon the neutral shipmaster.

Accept, etc.,

BERNSTORFF.

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*Ambassador Gerard to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*Berlin, August 27, 1916.*

Foreign Office in a note dated August 26, which was received to-day, replies as follows in regard to American steamer *Owego*:

As established by the Admiralty Staff of the Imperial Navy, a German submarine at 2.40 afternoon, on August 3, with very clear weather and smooth sea, sighted a slow-going steamer of an old type and stood by. At a distance of 6,000 meters the submarine made the steamer a signal to stop and gave two warning shots. As nothing happened on the steamer, whose flag was not recognizable but which nevertheless continued to proceed on its way, three further warning shots were fired. As the steamer neither made an "understood" signal nor stood by, fire was opened on it. After 6 shots (11 shots in all) it hoisted American flag on the forestay and stopped. The distance was now 2,000 meters. The submarine signaled "send immediately boat with the papers," to which the captain of the steamer answered by hoisting his designation signal but did nothing more. When, after a further 17 minutes, no preparations were made to launch a boat the commander of the submarine fired a shot across the steamer's bow. After 10 minutes the first officer came on board the submarine and stated that the captain had not observed the submarine until then. The Imperial Government

can not give any credence to this evasive excuse, since the note of August 18 mentions 10 shots fired at the steamer, from which it is undeniably clear that the warning shots were heard by the captain of the *Owego*, but that no attention was paid to them.

Under these circumstances the Imperial Government finds itself under the necessity of emphasizing the fact that while the conduct of the commander of the submarine was in every respect correct, the behavior of the steamer *Owego* was not in accordance with the rules of international law. The captain would therefore have had only himself to blame had his conduct brought about unpleasant results.

GERARD.